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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,563	12/08/2000	Peter Barath	70762.01	3223

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MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA, CA 92038-0573

EXAMINER

JACKSON, GARY

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,563

Applicant(s)

BARATH, PETER

Examiner

Gary Jackson

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-34 and 38-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54-56 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 17-34 and 38-47 is/are rejected.
- 7) ☒ Claim(s) 11-16 and 48-53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3731

DETAILED ACTION

This action is a response to applicants' amendment filed February 20, 2003.

NOTE: The applicant has canceled claim 3, and also amended claim 3. This is not clear to the examiner, so the examiner has examined claim 3 on the merits.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show claim 6, limitation as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Angelchik (US Patent 4,352,358). Concerning claim 3, Angelchik discloses an anastomosis coupling apparatus (figure 3) having an input end at 13 opening and an output end at 10 opening; the device is capable of engaging a first hollow organ with said input end, and substantially capable of engaging a side-wall of a second hollow organ with and output end. The coupling device is capable of positioning hollow organs in an end-to side tissue interface.

Claims 1-2, 17-34 and 38-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angelchik.

Art Unit: 3731

Angelchik discloses the methods of claims 1 and 2, except that Angelchik's hollow organ is a graft device rather than a first hollow organ. It would have been within the purview of one having ordinary skill in the art to use the patient's own hollow organ rather than a graft. (it would of course depend on the competency or availability of the organ). Angelchik patent further discloses that the attachment from the tubular member to the annular member 10 (anastomosis coupling) by any suitable technique. The securing techniques recited in claims 18-22 and related claims above are well known in the art. It would have been within the purview of one having ordinary skill in the art to secure coupling of Angelchik to the hollow organ 11 by the claimed techniques in view Angelchik's teachings. In regards to claims 24-25 and related claims directed to the specific hollow organ; once it is known in the art to cause anastomosis of an artery, would have been obvious to one have ordinary skill in the art to affix the coupler to coronary arteries as well.

Allowable Subject Matter

Claims 11-16 and 48-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed February 20, 2003 have been fully considered but they are not persuasive. The arguments directed to the shape (claim-shell) of the anastomotic device have been considered, but such has not been claimed. The particular advantages pointed out in the arguments do not patentably distinguish the claimed invention. The structure as recited does not distinguish of Angelchik. Angelchik is capable of performing the recited function.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

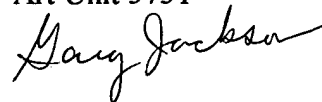
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (703) 308-4302. The examiner can normally be reached on Mon.-Thurs. 7:30 am to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2708 for regular communications and (703) 308-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Gary Jackson
Primary Examiner
Art Unit 3731



GJ
May 18, 2003